

## **EEO/EDR CHECKLIST**

- You are covered by this plan if you are an employee, applicant for employment or former employee of one of the following offices:
  - District Judge
  - Bankruptcy Judge
  - Magistrate Judge
  - District or Bankruptcy Court Clerk
  - Probation Office
  - Pretrial Services Office
  - Staff Attorney
- You are not covered by this plan if you are not an employee, applicant, or former employee of the above, including:
  - an applicant for bankruptcy judge
  - an applicant for magistrate judge
  - an attorney representing an indigent CJA defendant
  - a criminal defense investigator compensated under the Criminal Justice Act
  - a volunteer counselor or mediator
- To be covered by this Plan your complaint must involve:
  - discrimination based on race, color, religion, sex, sexual harassment, national origin, age (at least 40 years of age at time of alleged discrimination), or disability
  - violation of Family and Medical Leave Act
  - violation of Worker Adjustment and Retraining Notification Rights
  - violation of Employment and Reemployment Rights of Members of the Uniformed Services
  - Occupational Safety and Health Matters
  - Polygraph Tests
- COUNSELING:
  - To initiate a proceeding you must first submit a request for counseling
    - to EDR Coordinator
    - in writing
    - within 90 days of alleged violation or of time you became aware of alleged violation, and
    - indicate in writing whether you want to waive confidentiality of personnel information and records
  - Counselor must notify you in writing of conclusion of counseling period
  - Counseling lasts 30 days, but may be extended for another 30 days if you agree
  - Counselor must inform you of your right to request mediation as a condition of filing a formal complaint.

- **MEDIATION:**
  - To proceed, you must then file a request for mediation
    - within 15 days after the Counselor notifies you that the counseling has ended
    - in writing
    - to the EDR Coordinator
    - stating all your claims
  - You must attend at least one mediation session
  - Mediation will last 30 days (but the time may be extended for another 30 days if you agree)
  - If you reach a settlement, the mediator will reduce the settlement to writing
    - you must sign it.
    - an authorized member of the employing office must sign it
  - If you do not reach a settlement, the EDR Coordinator will give you, your representative, and the employing office written notice that the mediation period has ended, and tell you how to proceed with a complaint
- **FORMAL COMPLAINT:**
  - To proceed, you must then file a formal complaint
    - 5 days after EDR Coordinator notifies you mediation has ended
    - in writing
    - identifying the complainant and all others involved
    - setting forth a short and plain statement of your claim
    - stating what relief you want
    - naming the respondent as your employing office, not an individual
    - file it with the Chief Judge of the District Court, or, if it charges the chief judge, file it with the next senior active district judge. In either event it will be forwarded to the EDR coordinator;
  - The respondent will have a chance to respond to your formal complaint
  - The reviewing official will review the formal complaint and may dismiss it if it is:
    - frivolous
    - unduly repetitive of previous complaint
    - a claim which fails to state the relief that can be granted
    - a claim that has not been the subject of mediation
- **HEARING PROCEDURES:**
  - You may have a hearing (unless the hearing officer believes there are no material facts in dispute)
    - The hearing officer will provide for necessary discovery and

investigation, and determine the time, place, and manner of the hearing

- not more than 60 days after you file your complaint
- you will receive written notice of the hearing
- you may have a representative
- you or your representative may present evidence and cross-examine adverse witnesses
- the employing office may present evidence and cross-examine adverse witnesses
- a verbatim record of the hearing will be kept
- You will receive a decision within 30 days of the hearing

- **REVIEW OF HEARING DECISION**

- To request a review of the reviewing official or hearing officer's final decision, you must submit a petition for review
  - within 30 days of the decision or summary dismissal
  - in writing
  - to the Judicial Council of the Eighth Circuit
- The Judicial Council or a committee appointed by the Council will review the record created by the hearing officer.
- The decision will be affirmed if it is supported by substantial evidence.